THE AIR FORCE MATERIEL COMMAND

ALTERNATIVE DISPUTE RESOLUTION (ADR) PLAN FOR WORKPLACE DISPUTES

March 2002

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AFMC Alternative Dispute Resolution (ADR) Plan for Workplace Disputes

I. INTRODUCTION

In passing the Administrative Dispute Resolution Act of 1996 (ADRA of 1996), Congress recognized that agency dispute resolution proceedings had become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and a decreased likelihood of achieving consensual resolution of disputes. ¹ Congress also found that alternative dispute resolution (ADR) procedures yield decisions that are faster, less expensive and less contentious than traditional agency dispute resolution proceedings and that ADR can lead to more creative, efficient, and sensible outcomes.

Air Force Policy Directive (AFPD) 51-12 is designed to implement the ADRA of 1996 and to establish a program to comply with and implement the varied mandates to foster ADR in a manner that minimizes unnecessary duplication of effort within the Air Force.² The ADR Plan is also designed to obtain a consensus from senior management officials responsible for acquisition, workplace and environmental functional offices regarding business objectives, program framework, and program metrics for their functional areas and to provide a framework for coordinating the implementation of the various functional ADR plans.

The AFMC Workplace Disputes ADR Plan is promulgated pursuant to AFPD 51-12 and is intended to be consistent with the AF ADR Plan published by SAF/GCQ in March 2001.

II. MISSION, GOALS AND VISION

The mission of the AFMC ADR Program for workplace disputes is to: (1) enhance the frequency and efficiency of workplace dispute resolution throughout AFMC; (2) match AFMC ADR needs with appropriate resources; and (3) translate individual dispute resolution knowledge and skills into a corporate capability.

The goal of the AFMC ADR Plan is to implement a Command-wide ADR program, which provides a framework/process for the development of installation-level ADR programs within AFMC.

The AFMC ADR vision, consistent with AF policy, is to promote the use of ADR to the maximum extent practicable and appropriate to resolve workplace disputes at the earliest stage possible, by the fastest and least expensive method possible, and at the lowest possible organizational level.

¹ See Congressional findings in Section 2 of Pub. L. No. 104-320, 110 Stat. 3870 (1996).

² See Department of Defense Directive 5154.5 (Apr. 96), para. D. that states:

^{1.} Each DoD Component shall establish and implement ADR policies and programs. Each Component shall make use of existing government ADR resources to avoid unnecessary expenditure of time and money.

^{2.} All DoD Components shall use ADR techniques as an alternative to litigation or formal administrative proceedings whenever appropriate. Every dispute, regardless of subject matter, is a potential candidate for ADR.

^{3.} Each DoD Component shall review existing approaches to dispute resolution and, where feasible, foster increased use of ADR techniques. Components shall identify and eliminate unnecessary barriers to the use of ADR.

III. SCOPE

The scope of the AFMC Plan incorporates opportunity for voluntary ADR of workplace disputes that arise in any context and involve any AFMC personnel, civilian or military. ADR techniques should be available to assist in resolving matters raised within equal employment opportunity (EEO), Merit Systems Protection Board (MSPB), negotiated grievance procedure (NGP), administrative grievance procedure (AGP), unfair labor practice charges (ULP's), military equal opportunity and treatment (EOT), and any other potential workplace disputes.

IV. ADR PROGRAM STRUCTURE AND KEY PLAYERS (ATTACHMENT 1, AFMC ADR STRUCTURE FOR WORKPLACE DISPUTES)

A. HQ USAF

Air Force Policy Directive 51-12 establishes the Air Force ADR policy and program infrastructure. The Air Force ADR Plan, promulgated pursuant to the Policy Directive, sets forth the Air Force vision for employing ADR in a wide variety of contexts, including workplace disputes, contracts, and environmental issues. Consistent with AFPD 51-12, the organizations below have the following responsibilities:

1. SAF/GC

The Office of the General Counsel has overarching responsibility for coordinating and assisting in the development of component (i.e. Acquisition, Environmental, and Workplace) ADR plans and is responsible for establishing and implementing Air Force ADR policy, guidance, and regulations. SAF/GC secures monies in the Air Force POM and uses these corporate funds to provide for ADR related training, travel, and services. SAF/GC works closely with appropriate AFMC MAJCOM and installation level functional offices to match AFMC ADR training, implementation, and guidance needs with existing Air Force resources.

2. AF/DP

The Deputy Chief of Staff for Personnel approved the Air Force Workplace Dispute ADR Plan, and is the Air Force Workplace Dispute ADR Champion. AF/DPFCL is the AF/DP ADR representative and serves as the point of contact for matters concerning Air Force ADR policy, guidance, and regulations for workplace disputes.

³ Military personnel disputes appropriate for resolution through the mediation process or technique shall be screened in accordance with applicable Air Force Instructions. For Military Equal Opportunity and Treatment Program (MEO) cases, see AFI 36-2706, Chapter 4, Section E.

Mediation is not intended as a substitute for appropriate action under the Uniform Code of Military Justice (UCMJ) or for use in appealing any action under the UCMJ. Specifically, mediation shall not be used to address misconduct by military members that may be actionable under the UCMJ.

B. HQ AFMC

1. AFMC/AFGE Council 214 Partnership Council

The Partnership Council supports AFMC ADR program development, and key union stakeholder participation to ensure program success at AFMC installations where employees are represented by Council 214 locals within the consolidated command-wide bargaining unit.

2. AFMC/DP

Since the majority of workplace disputes are governed by Personnel regulatory guidelines/procedures, AFMC/DP is the AFMC Workplace Dispute ADR Champion, and serves as the ADR process owner. The AFMC Workplace Dispute ADR Champion is responsible for developing and implementing the AFMC Workplace Dispute ADR Plan, ensuring the development of each AFMC installation's individual Workplace Dispute ADR Plan, providing oversight of the ADR program within the Command, and annually assessing the development and progress of the Command ADR program through the collection of annual reporting data from the local installations. AFMC/DP will provide feedback/regular updates to the AFMC/AFGE Council 214 Partnership Council on the health of the AFMC ADR Program.

V. THE AFMC ADR PLAN FOR WORKPLACE DISPUTES

A. Installation-Level Structure

1. Center Commander (Wing Commander at Installations Where There is No Center Commander, e.g. Brooks AFB, Kirtland AFB)

Each Commander, or designee, will appoint a single ADR Champion to: (1) work with key stakeholders in developing/implementing an installation-level workplace dispute ADR plan, which adheres to the AFMC ADR plan; and (2) promote the use of ADR to resolve workplace disputes. The ADR Champion need not be appointed from the installation's Civilian Personnel Flight. The Commander shall also take appropriate steps to ensure their ADR activity is coordinated across functional lines (i.e. CCX, OHC, EEO, MEO, JA, and CPF) to avoid unnecessary duplication of effort and to ensure the installation's workplace ADR program is explained and understood by installation employees.

Each Commander, with the assistance of the ADR Champion and input from the Union, will select and appoint individuals to serve as mediators/neutrals for purposes of workplace dispute ADR.

2. ADR Champion

ADR Champions coordinate all workplace ADR efforts at their installation within and among the functional communities.

a. Selection by Commander

While use of ADR techniques must be voluntary, commanders must be strong advocates in order for ADR to succeed. Commanders must place special emphasis on selection

of their installation ADR Champion. In order to ensure that this person is viewed as the most trusted, respected, objective, and fair neutral party by all segments of the workforce, Commanders shall solicit and encourage input from all stakeholders, including local Union officials.

b. Roles/Duties

The ADR Champion is the single point of contact for all workplace dispute ADR program activity at the installation, including but not limited to the following elements:

- (1) program oversight/implementation
- (2) data collection/reporting
- (3) develop/project annual funding/resource requirements
- (4) ADR awareness training and program marketing
- (5) mediator training/resource requirement projection
- (6) mediator performance evaluation
- (7) assist/administer case screening/selection for use
- (8) coordination of ADR activity across functional lines, e.g. EEO, MEO, JA, CPF, CCX, OHC
- (9) selection of trusted neutrals as mediators

3. Labor-Management Partnership

The local unions at each installation are essential stakeholders, whose participation and support for using ADR to resolve all workplace disputes, including employee grievances and unfair labor practice charges, are essential to overall program success. It is essential to include the local union in the design and implementation of the installation ADR Program if grievances and labor-management disputes are to be included within the scope of the program.

As regards to AFGE Council 214 local unions, pursuant to the Master Labor Agreement (MLA), Article 6.02, the Union is authorized to appoint its own point of contact for workplace ADR. This individual should advocate the use of ADR and work closely with the ADR Champion to improve the effectiveness of the installation ADR program. In addition, MLA Article 4.06 provides for a reasonable amount of official time for union representatives engaged in ADR activities involving matters under the negotiated grievance procedure. Similar provisions of other local collective bargaining agreements may apply to non-Council 214 bargaining units.

In addition, a number of AFMC installations have signed agreements with their local Union Presidents to use ADR to resolve certain labor-management disputes. (For a complete listing of these agreements, see http://www.adr.af.mil/SOURCE/laborflowcharts.htm). Commanders must ensure their organizations implement these agreements and should integrate them to the extent practicable within the overall installation workplace dispute ADR plan.

4. Compliance with Equal Employment Opportunity Commission (EEOC) Regulations

In accordance with EEOC regulations found at 29 C.F.R. 1614, every AFMC installation workplace dispute ADR Plan must encompass Equal Employment Opportunity (EEO) informal and formal complaints. The installation EEO Manager serves as the primary point of contact for disputes involving alleged discrimination and shall work closely with the installation ADR Champion on ADR matters related to EEO cases. In addition, the Air Force has deployed the new EONET-CIV computer system/database to standardize EEO forms and ADR processes within the Air Force. Those documents that relate to ADR will also be available on the Air Force ADR Program website at http://www.adr.af.mil.

5. Appointment of Mediators

- a. The ADR Champion will recruit and maintain a pool of qualified individuals to serve as workplace dispute mediators for the installation on a collateral duty basis. The Commander shall solicit/consider input from Union officials and may choose to employ a selection panel, which includes Union representation, to assist in evaluating mediator candidates.
- b. The ADR Champion shall ensure that individuals selected as mediators are trusted, respected, objective, and fair neutrals. In addition, the Air Force Mediation Compendium outlines standards that Air Force mediators and case intake officials must maintain when providing mediation services. They are self-determination, impartiality, conflict of interest, confidentiality, and quality of the process. AFMC will adhere to these guidelines
- c. Individuals selected for mediator training and assignment should possess a special blend of experience, personality traits and skills in order to ensure their effectiveness. In order to remain effective following initial training, mediators need to employ their skills on a regular basis. Commanders should therefore appoint the number of mediators necessary to ensure that each has an opportunity to serve at least once per quarter, and preferably more often. Further, in order to remain effective, mediators should receive eight hours of refresher training at least every 12 months.

B. ADR Case Selection Criteria

Under the ADRA of 1996, Congress requires consideration of the following factors in deciding if a case is appropriate for ADR. If any of the considerations listed below apply to an issue in controversy, use of ADR *may not* be appropriate:

- 1. A definitive and authoritative decision is needed as a precedent.
- 2. The matter involves significant issues of Government policy and ADR will not assist policy development.
- 3. Maintaining established policy and avoiding variations in implementation is of special importance.
- 4. The matter significantly affects non-parties.
- 5. A full public record of the proceeding or resolution is important.

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⁴ See 5 U.S.C. § 572(b).

6. The agency must maintain continuing jurisdiction over the matter with the right to alter the resolution as circumstance demands.

In addition, allegations of fraud, waste, or abuse prohibit the use of ADR.

C. ADR Program Education and Training

1. ADR Awareness Education

The AF ADR Program Office will, upon request and to the extent that resources permit, arrange for AFMC personnel to receive ADR awareness education. Such ADR

awareness education should be provided to commanders, supervisors, managers, other military and civilian personnel, and union officials. The purpose of ADR awareness education is to increase overall understanding and acceptance of the ADR process and when its use is appropriate, rather than providing specific skills training for individuals to actually perform as workplace dispute mediators. All ADR awareness education will, at a minimum:

- (1) Ensure attendees understand what ADR is and how it can assist them in resolving disputes in a consensual, non-adversarial manner;
- (2) Understand the potential of ADR to resolve the issues underlying a dispute;
- (3) Understand the potential of ADR to achieve time and cost savings by providing conflict management tools necessary to resolve disputes at the earliest possible time; and
- (4) Understand not all disputes are appropriate for resolution through ADR.

2. Mediator Skills Training

As a general rule, only those individuals appointed by Commanders to be mediators at each installation should receive mediator skills training. On a case-by-case basis, others may be nominated to receive such specific mediator skills training in order to enhance their contribution to the workplace dispute ADR program. Utilize the form at Attachment 3 to nominate individuals for mediator skills training.

Mediator skills training is centrally funded by the AF ADR Program Office. The AF ADR Program Office requires Installation ADR Champion(s) to secure the written approval from the supervisor of all nominees for mediation training that is consistent with items 1-4, below. A standard form for accomplishing this is available on the Air Force ADR Program web site at http://www.adr.af.mil.

Where mediator training meeting the standards of the AF ADR program is available at no cost, or when the AF ADR Program Office has declined to provide central funding, installations may locally obtain and fund such training without prior approval of the AF ADR Program Office.

The AF ADR Program Office has established the following guidelines for nominating mediation attendees that, if provided in writing, will significantly enhance the nominee's selection potential:

(1) Attend the 32 hour basic mediation training that is consistent with the guidance provided in the Air Force Mediation Compendium;

- (2) Strive to maintain and improve their mediation skills, by activities such as keeping abreast of new developments by reading newsletters, journals, web sites, etc, or attending locally available training, for 24 months after completion of the Air Force Basic Mediation Course.
- (3) Strive to attend regular mediator training meetings scheduled by the ADR Champion that will provide training on topics such as improving communication skills; mediator ethics; various complaint systems; terms of the union contract; interest-based bargaining techniques; role-playing; improving parts of mediation (e.g., opening statements; what to listen for in parties' statements; moving to caucus; identifying impasses, overview of personnel policies; procedures, and points of contact, and
 - (4) If requested, attend the Air Force Advanced Mediation Course.

D. Legal/Compliance Support/Review Of ADR Settlement Agreements

AFMC policy strongly encourages the formation of settlement agreements arrived at through the use of ADR techniques. Not all workplace issues or problems become workplace "disputes". Similarly, settlement agreements involving workplace issues *may* be simple oral understandings (a "handshake"). However, if an individual has invoked a formal workplace dispute process (e.g., filed an EEO informal complaint, filed an informal grievance under the Agency Administrative Grievance Procedure or a negotiated grievance procedure, met at step 1 of the negotiated grievance procedure, or engaged in mediation or a negotiated ADR process prior to Step 1 of the Master Labor Agreement (MLA) negotiated grievance procedure), any settlement agreement must be in writing and signed by the parties.

In order to ensure that such written settlement agreements are legally valid, enforceable, and/or do not conflict with any regulatory requirements or provisions of a collective bargaining agreement, each written settlement agreement should be reviewed by JA, DP, and/or the local Union, as appropriate for the particular issue/dispute involved. Final technical reviews will only address the technical acceptability of the provisions and do not provide the opportunity to judge the wisdom, quality or value of the settlement agreement. JA review is for legal sufficiency. DP review is to ensure compliance with applicable personnel rules, policies, regulations/ instructions, and collective bargaining agreements. (Note: Management officials are also responsible for ensuring compliance with applicable collective bargaining agreements.) DP coordination with the Air Force Personnel Center (AFPC) may also be necessary if a settlement concerns a specific action for which AFPC is responsible. Caution should be exercised in coordinating agreements long distance to protect the confidentiality of the involved parties and to safeguard documents. Union review is for ensuring compliance with applicable collective bargaining agreements in cases involving bargaining unit employees being represented by the Union, i.e. grievances, ULP's. JA, DP, and Union review/coordination should normally occur before the conclusion of the ADR process, (i.e. before a settlement agreement is actually signed by the parties to avoid any potential compliance problems) but not later than three workdays following the ADR process.

E. ADR Program Assessment

1. ADR Program Metrics

To ensure that the ADR Program goals are clearly defined and accurately measured, the AFMC ADR Champion (AFMC/DP) will utilize the following metrics to quantify and evaluate program performance. Data and metrics are gathered for informational purposes and to assist in resource allocation planning, and shall not be used to compare individual installation ADR programs.

a. ADR Attempt Rates

Analyzes each installation's performance relative to the previous year. The desired trend is to increase attempt rates until ADR is attempted in approximately all disputes where appropriate. These rates will be identified as the program matures and this metric is modified accordingly.

b. ADR Resolution Rates

Analyzes the number of disputes resolved through ADR. The resolution percentage should increase over time until reaching the maximum reasonable level. This level will be identified as the program matures and this metric is modified accordingly.

c. Timeliness of ADR Resolutions

Analyzes the average number of days required to begin and complete an ADR process (e.g., "at installation X, we processed our ADR cases in an average of 32 days.")

d. Quality Assurance

Measure customer satisfaction regarding the provision of ADR services to ensure the quality of the services provided and the competence of the neutrals providing those services. See Attachment 2.

2. Quality and Evaluation of Neutrals

The installation-level ADR Champions will ensure the parties to each ADR proceeding complete an ADR evaluation form (see Attachment 2) and provide it to the neutral in a sealed envelope. The Installation ADR Champion will collect, review, and summarize these evaluations from the neutrals and will use this information to ensure the quality of the services provided by ADR neutrals remain high.

Unless otherwise provided for by local agreement, any complaints or problems with a specific mediator should be directed to the installation ADR Champion for appropriate consideration and action.

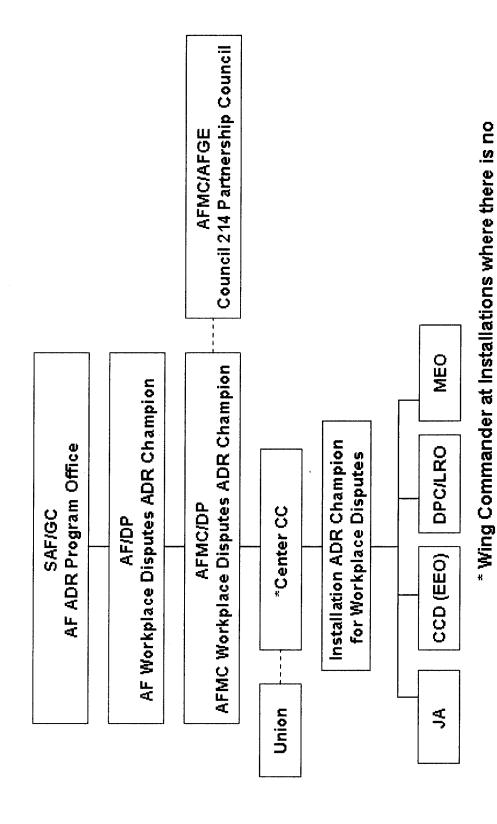
Any complaints or problems with an outside third-party neutral under contract with the Air Force should be directed through the installation and AFMC ADR Champions to the AF ADR Program Office for appropriate consideration and action.

VI. PLAN ROLLOUT AND IMPLEMENTATION (ATTACHMENTS 4 & 5, AFMC ADR IMPLEMENTATION PLAN MILESTONES AND BRIEFING/TRAINING MATRIX)

- A. Partnership Council Approval of AFMC ADR Plan
- B. Installations Identifies/Provides ADR requirements to AFMC ADR Champion
- C. AFMC/DP Schedules Workshops/Briefings/Visits to Selected Installations
- D. Installation Commander appoints Local ADR Champion
- E. Installation Commander and Local AFGE Union President Issue Joint Letter Promoting ADR
- F. Development of Local ADR Plans
- G. Briefing Team Coordinates with Installation ADR Champion, e.g. scheduling briefings/visits, ADR Awareness Education, etc.
- H. Briefing Team/ADR Champion Conduct Briefing at Installations
- I. Provide Targeted Mediation (Or Other ADR) Services
- J. Incorporate ADR Awareness Training into Local Training Courses, e.g. Supervisory and new employee training/orientation
- K. Follow-up Briefings by Local ADR Champion With Commanders W/In 90 Days
- L. Conduct Program Assessment (e. g. fiscal year end review/reports)



AFMC ADR Structure for Workplace Disputes



center commander, e.g. Brooks AFB, Kirtland AFB.

Attachment 2 - AFMC Workplace Dispute ADR Evaluation Form

Date ADR Completed: Time ADR Started: Time ADR Ended:						
	Neutral:					
	·					
	1					
What was your role in the case? () Emease specify)	ployee () Union () Agency () Other					
How would you compare the amount of the	ime taken to resolve this case using the ADR process been required if a formal dispute resolution had					

3. ADR PROCESS - The following questions concern your experience with the		
Please tell us how satisfied you were with each of the following features of the p	process.	
(Please check one)		

Feature	Very Satisfied	Somewhat Satisfied	Neutral	Somewhat Dissatisfied	Very Dissatisfied
Amount of information you received about					
the process.					}
Amount of control you had over the					
process.					
Opportunity to present your side of the					
dispute.					
Fairness of the process.					
Overall outcome of the process.					
Speed with which the dispute was					
resolved.					
Outcome of the process compared to what					
you expected it to be before it took place.					
Overall, how satisfied were you with the					
ADR process?					

4. <u>Mediator/Facilitator</u>: Would you please take a moment to evaluate your mediator/facilitator using the following chart? (Please check one)

	Excellent	Good	Average	Fair	Poor
1. Neutrality (Did the mediator/facilitator have the					
appearance of impartiality, without favoritism or bias?)			4		
2. Communication (How well did the mediator/facilitator					
facilitate communication between the parties?)			1		
3. Managing the ADR Process (Did the mediator/facilitator					
effectively handle conflicts, suggest movement ideas,					
propose problem-solving solutions?)					
4. Patience (Did the mediator/facilitator devote the					
necessary time and attention to the parties to keep the process					=
moving without appearing to rush or be in a hurry to					
complete the process?)					
5. Expertise (Did the mediator/facilitator demonstrate the					
necessary expertise to mediate this type of dispute?)					
6. Facilitative Abilities (Did the mediator/facilitator ask					
relevant questions to seek out pertinent information and keep					
the process moving forward?)					
7. Overall Ability of the Mediator/Facilitator in General					

	of the Mediation Please Check one: () Full Settl () Did not Settle	ement () Partial
6. Would you	ar recommend this process? ()Yes ()No		
7. Would you	recommend this Mediator/Facilitator for future r	mediations? ()Yes ()No
Comments:			

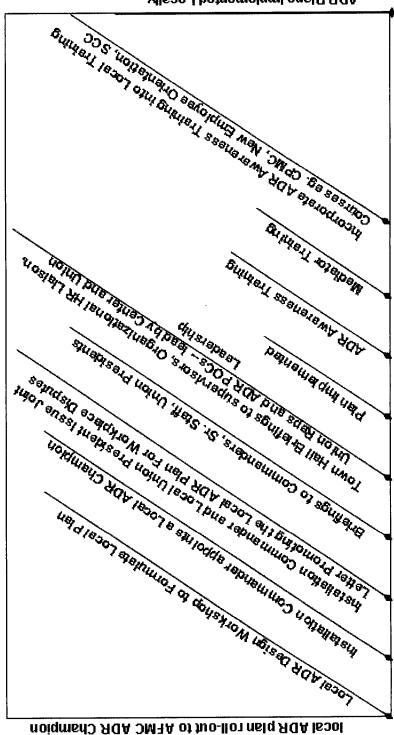
Attachment 3 – Nomination Form For Basic Mediation Course

I.	BACKGROUND INFORMAT	ION
1.	Name:	2. Title:
3.	Organization:	4. Rank
5.	Phone:	6. Fax
7.	E-Mail:	7. SSN:
	To help us with budgeting for your earse: By Car	xpenses, please indicate whether you would travel to this By Plane
II.	OPPORTUNITY FOR NOMI	NEE TO USE MEDIATION SKILLS
1.	Types of workplace disputes nomine	e handles
	a EEO Complaints	b Labor/Management Disputes
	c MSPB Matters	d Other (please specify)
2.	Number of foregoing complaints han	dled by nominee in FY:
3.	Number of foregoing complaints han	dled by nominees office in FY:
4.	Other relevant information about nor	ninees opportunity to use mediation skills:
III.	. QUALIFICATIONS OF NOM	INEE
agr	Successful mediators possess spece in writing below that the nominee	ecial skills and abilities. The nominee's supervisor must has the ability to:
	glean and analyze informa	ation from disputants;
	listen actively;	
	suspend judgment;	
	facilitate communication	between disputants;
	facilitate options for resol	ution of disputes; and
	draft clearly-worded settle	ement agreement.

	As the supervisor of of Nominee for the Basic Mediation Course) egoing:	believe that has demonstrated the ability to do each of				
		Name and Title				
IV.	NOMINEE'S PLEDGE					
follow	I have discussed the foregoing with my supe ing pledge to:	rvisor and with the his/her support make the				
•	Attend the 32 hour Air Force Basic Mediation	on Course;				
•	Strive to maintain and improve their mediation skills for 24 months after completion of the Air Force Basic Mediation Course;					
•	Strive to attend regular mediator training mediator training on top mediator ethics; various complaint systems; bargaining techniques; role-playing; improving statements, what to listen for in parties' state impasse,) overview of personnel policies, pr	pics such as improving communication skills; terms of the union contract; interest-based ing parts of mediation (i.e. opening ements, moving to caucus, identifying				
(Name of the fore	If requested, attend the Air Force Advanced	Mediation Course.				
		Nominee				
		Date				

ADR IMPLEMENTATION PLAN

Milestones



ADR Plans Implemented Locally

CC's provide ADR requirements and projected dates for



(~~

31 Dec 02

X identifies individuals who should attend briefing/training

BRIEFING/TRAINING MATRIX

	CONBUSE COMMANDERS SONADBON					0.10		×		
	NEW SUPERVISOR - - JMHO / CHURATT S SENERAWA ROA			×	7 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2					
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g/Training	NOITAIOƏM ƏNINIART			*					х	
Type of Briefing	8 S∃N∃RAWA ROA ƏNINIART (YAO-S.g.∍)	N 017	[AJJAT	OCAL INS	K B A FI	.YAS SE	O NEC	BMINE	3130	SA.
Туре	JIAHWWOT AGA SUOISSES	×	×	×	Х	х	Х	Х	Х	×
	MOBK2HOb2 YOB DE2IGN	Х	×		Х	х				
	SENIOR LEVEL	Х	×			*				
		CC/CV/VCD SENIOR LEADERSHIP	UNION PRES/ LEADERSHIP	IST/2ND LEVEL SUPERVISORS	UNION REPS	ADR POCs	HR LIASONS	SQUADRON COMMANDERS	MEDIATORS	BMPLOYEES
			S	əəpuəi	ĮΑ,					